

REMARKS

This is a full and timely response to the final Office Action mailed December 10, 2003. Claims 1-24 are pending in this application. The present Office Action has rejected Claims 1-24. By the present amendment, independent claims 1, 11, and 20 have been amended. The amended claims are neither taught or suggested by the cited references of the Office Action, therefore these claims are patentable over the cited art.

I. THE REJECTION UNDER 35 U.S.C. 102(e)

On page 2, the Office Action has rejected claims 1-5, and 21 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,088,613 to Unger ("the '613 patent" or "Unger"). Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Independent claim 1 has been amended by the present amendment. Amended claim 1 now includes the element "mounting an ultrasonic source to the patient." In one embodiment of the Applicant's invention, a "placement module 14 is positioned and secured to the patient's body as shown by Fig. 2, such that the transducer assembly 16 lies over or in proximity to the injury." Specification, p. 10, lines 15-17. Unger fails to disclose this element of the Applicant's claimed invention. Instead, Unger discloses that "[m]ost preferably, the energy deposited into the tissues using a hand held magnetic resonance compatible ultrasonic transducer." Col. 10, lines 20-22. Since Unger does not disclose each and every element of amended claim 1, claim 1 should be allowable over the cited art.

Claims 2-5, and 21 are dependent from independent claim 1. If the underlying independent claim is allowable over the cited art, then these dependent claims should also be in condition for allowance.

II. THE REJECTION UNDER 35 U.S.C. 103(a)

On pages 2-5, the Office Action has rejected claims 6, 7-10, 11, 12-14, 15-20, 22, 23, and 24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,088,613 to Unger ("the '613 patent" or "Unger") in view of at least one of the following references: Unger et al., and Talish et al. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Independent claims 11 and 20 have been amended by the present amendment. Claim 11 has been amended to include the element, "an ultrasonic transducer assembly having at least one ultrasonic transducer, wherein the ultrasonic transducer assembly is adapted to be mounted to a patient's body." (Underlining supplied). Claim 20 has been amended to include the element, "providing a main operating unit having an internal power source coupled to an ultrasonic transducer assembly, the ultrasonic transducer assembly includes at least one ultrasonic transducer, an ultrasonic signal generator and signal generator circuitry therein, wherein the ultrasonic transducer assembly is adapted to be mounted to a patient's body." (Underlining supplied). In each of these amended claims, the new elements are neither disclosed nor suggested by the cited art. Unger discloses that "[m]ost preferably, the energy deposited into the tissues using a hand held magnetic resonance compatible ultrasonic transducer." Col. 10, lines 20-22. However, as the Office Action admits, Unger does not disclose an ultrasonic transducer assembly

adapted to be mounted to a patient's body. Moreover, while Talish et al. discloses an apparatus for treating a patient, Talish et al. does not disclose an ultrasound contrast agent.


Furthermore, neither of the cited references provide any motivation to combine the teachings of Unger and Talish et al. Unger is concerned with "immobilized patients," including the steps of scanning a patient with magnetic resonance imaging to identify an area of injury, and then applying ultrasound to the patient to react with a therapeutic injected into a localized region of the patient. Col. 4, lines 63-65; Col. 5, lines 8-18 and 60-63. In contrast, Talish et al. is concerned with the "mobility of patients," including applying ultrasound to an area of injury while maintaining patient mobility. *See Background of the Invention.* Talish et al. is neither concerned with scanning a patient with magnetic resonance imaging to identify an area of injury, or applying ultrasound to the patient to react with a therapeutic injected into a localized region of the patient. Treatment methods for "immobilized patients" differ from those that are designed to maintain patient mobility. Therefore, since Unger and Talish et al. do not disclose or suggest each and every element of amended claims 11 and 20, and since there is no motivation to combine the teachings of these references, then amended claims 11 and 20 should be allowable over the cited art.

Claims 6, 7-10, 12-14, 15-19, 22, 23, and 24 are ultimately dependent from either claims 1, 11, or 20, for which arguments of patentability have been advanced above. Therefore, dependent claims 6, 7-10, 12-14, 15-19, 22, 23, and 24 should also be allowable over the cited art.

CONCLUSION

Claims 1-24 are now in condition for allowance. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 815-6048 if such contact will facilitate a Notice of Allowance. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



Christopher J. Chan
Reg. No. 44,070
Attorney for Assignee

DATED: 10 MARCH 2004

KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309-4530
(404) 815-6500
(404) 815-6555 (fax)
Attorney Docket No.: 41482/205543